

REMARKS

This communication is filed in response to the Office Action dated January 15, 2010. No claims are amended, canceled, or added. Accordingly, claims 1-20 remain pending in this application.

The Rejection of Claims Under § 102

Claims 1-20 are rejected under 35 U.S.C. 102(e) as allegedly being anticipated by U.S. Publication No. 2002/0076050 by Chen et al. (“Chen”). Since a *prima facie* case of anticipation has not been properly established, Applicant respectfully traverses the rejection.

In order to anticipate a claim, a reference must teach all limitations, arranged or combined in the same way as recited in Applicants’ claim. The Court of Appeals for the Federal Circuit held

[U]nless a reference discloses within the four corners of the document not only all of the limitations claimed but also *all of the limitations arranged or combined in the same way as recited in the claim*, it cannot be said to prove prior invention of the thing claimed and, thus, cannot anticipate under 35 U.S.C. § 102. (*Net MoneyIn, Inc. v. Verisign, Inc.*, No. 2007-1565 at 17. (Fed. Cir. Oct. 20, 2008.) Emphasis added.)

Because Chen fails to disclose all limitations of independent claims 1, 7, 9, 10, and 20, these claims are not anticipated, and are thus novel. In particular, Chen fails to disclose that “the range has a starting point *kept at a predetermined distance* prior to a time value corresponding to when the entitlement management message is sent” and that “the starting point *advances with the time value* corresponding to when the entitlement management message is sent” (emphasis added) as recited in claim 1.

In contrast, in Chen, there is pre-encrypted content that has been encrypted at a particular moment in time indicated with a first time stamp. *See, e.g.*, [0027] and FIG. 4, Ref. 404. When the pre-encrypted content is requested for watching, an encryption record is sent along with the request wherein a second time stamp is included. *See, e.g.*, [0027] and FIG. 4, Ref. 409. If the

second time stamp is prior to (or equal to) the first time stamp, then access is provided to the encrypted content. *See, e.g.*, [0028] and FIG. 4, Refs. 412 and 416. Otherwise, access to the encrypted content is denied. *See, e.g.*, [0028] and FIG. 4, Refs. 412 and 414.

In Chen, if it is determined that the second time stamp is earlier than the last legal time stamp (*i.e.*, the first time stamp), then the pre-encrypted content was generated *while in possession of the owner* (*see* [0085]). After this determination, proper entitlement control messages (ECMs) are created specifically for the particular pre-encrypted content and for a particular time period (*see* [0049]).

As such, there is no notion of “a starting point kept at a predetermined distance prior to a time value corresponding to when the entitlement management message is sent” as recited in claim 1. Moreover, there is no notion of “the starting point advanc[ing] with the time value corresponding to then the entitlement management message is sent” as recited in claim 1. Claim 1 is therefore in condition for allowance.

Further independent claims 7, 9, 10, and 20 each have limitations similar to claim 1 and are asserted to also be allowable for at least the same reasons. Claims 2-6, 8, and 11-19 depend either directly or indirectly from claim 1, 7, 9, or 10 and are allowable for at least the same reasons. Further, these dependent claims may each be patentable for their own limitations.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have equally addressed every assertion made in the Office Action, however, this does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner’s personal knowledge, rather than any objective evidence of record as

manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone the undersigned at (408) 278-4051 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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By /Karen Kaufman/
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 15th day of June, 2010.

/Cheryl L Knapp/
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